

1 KEVIN V. RYAN (CABN 118321)
United States Attorney

2 EUMI L. CHOI (WVBN 0722)
3 Chief, Criminal Division

4 MARK L. KROTOSKI (CABN 138549)
MATTHEW A. LAMBERTI (DCBN 460339)
5 Assistant United States Attorneys

6 Attorney for Plaintiff
United States of America

7 150 Almaden Blvd., Suite 900
8 San Jose, California 95113
9 Telephone: (408) 535-5065

E-FILED - 3/2/06

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,)
13)
14 Plaintiff,)
15 v.)
16 YE TENG WEN,)
17 aka Michael Wen, and)
18 HAO HE,)
19 aka Kevin He,)
20 Defendants.)

No. CR 05-00641-RMW

ORDER AFTER HEARING
EXCLUDING TIME UNDER THE
SPEEDY TRIAL ACT

21 On February 27, 2006, the above-captioned case came on for a status conference hearing.
22 Defendant Ye Teng Wen, who was present, was represented by defense attorney Vicki Young,
23 and defendant Hao He, who was present, was represented by defense attorney Richard Pointer.
24 The United States was represented by Assistant U.S. Attorneys Mark L. Krotoski and Matthew
A. Lamberti.

25 At the hearing, the Court set a status conference for April 24, 2006 at 9:00 a.m. The
26 parties agreed and the Court independently found that time should be excluded under the Speedy
27

28 [] ORDER AFTER HEARING EXCLUDING TIME UNDER THE SPEEDY TRIAL ACT
CR 05-00641-RMW

1 Trial Act from February 27, 2006 through and until April 24, 2006, to allow counsel time to
2 prepare for trial, pursuant to 18 U.S.C. §§ 3161(h)(8)(A), 3161(h)(8)(B)(iv) (reasonable time
3 necessary for effective preparation taking into account the exercise of due diligence and
4 continuity of counsel).

5 Specifically, the ends of justice served by the granting of such continuance outweigh the
6 best interests of the public and the defendant in a speedy trial, after considering the relevant
7 factors:

- 8 (i) The failure to grant such a continuance in the proceeding would be likely to result in a
9 miscarriage of justice since the defense needs reasonable time to prepare for trial and
10 pursue other investigation, particularly given the discovery provided (including
11 approximately 28 pallets of evidence obtained in the case and which the defense has
12 reviewed on one occasion in a warehouse), and the number of witnesses involved in the
13 case; the parties have also been discussing valuation issues in the event the case may
14 resolve.
- 15 (ii) The failure to grant such a continuance would deny counsel for the defendant reasonable
16 time necessary for effective preparation, taking into account the exercise of due diligence;
- 17 (iii) The request for the exclusion of time is reasonable and specifically limited in time until
18 April 24, 2006, after allowing time for reasonable time for investigation and preparation.

19 For the foregoing reasons, the ends of justice served by the granting of such continuance
20 outweigh the best interests of the public and the defendant in a speedy trial, and given that the
21 defense needs reasonable time necessary for effective preparation, taking into account the
22 exercise of due diligence. 18 U.S.C. S 3161(h)(8)(A).

23 This written order memorializes the oral rulings of the Court made on February 27, 2006.

24 Dated: March 2, 2006

25
26 /s/ Ronald M. Whyte
27 RONALD M. WHYTE
28 United States District Judge